THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.14636 OF 2006

DATED: 25th July, 2006.

Between :

Ruksana Begum … Petitioner

And

1. The Special Deputy Collector (TW) and
   Prescribed Officer under A.P. Scheduled Areas
   Land Transfer Regulation 1959, Utnoor,
   Adilabad district and 3 others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.14636 OF 2006

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to the proceedings vide No.TWA.2/7/2006 initiated by the 1st respondent – Special Deputy Collector (TW), and to quash the same.

I have heard the learned Counsel for the petitioner as well as the learned Government Pleader appearing for the respondents 1 to 3.

The impugned notice dated 1-4-2006 was issued by the 1st respondent informing the petitioner that an enquiry will be made in respect of Sy.No.247 of Thosam village, Gudihatnoor Mandal, Adilabad district to an extent of Ac.13-21 guntas under Rule 7 (2) of the Rules made under A.P. Scheduled Areas Land Transfer Regulation 1 of 1959 (for short, 'Regulation 1 of 1959) on 17-4-2006 and calling upon the petitioner to attend the enquiry with all material evidence relating to transfer of the land.

Rule 7 of the A.P. Scheduled Areas Land Transfer Rules, 1969 prescribes the procedure for enquiry under Section 3 (2) of the Regulation 1 of 1959 by calling upon the person concerned to show-cause as to why he should not be ejected and the property should not be restored to the transferor or his heirs.

A reading of Section 3 (2) of the Regulation 1 of 1959 makes it clear that where a transfer of property is made in contravention of sub-section (1) of Section 3, the Agency Divisional Officer or any other

Prescribed Officer may on application by any one interested, or suo motu decree ejectment against any person in possession of the property.

The petitioner does not dispute the fact that the 1st respondent is the Prescribed Officer under the provisions of the A.P. Scheduled Areas Land Transfer Regulation, 1959. It is also stated that the said proceedings were initiated on a complaint made by the respondent No.4 herein. However, the only contention raised by the petitioner is that the proceedings under Section 3 (2) of Regulation 1 of 1959 can be initiated only where a transfer of property is made in contravention of sub-section (1) of Section 3 and since the land in her occupation was donated by her husband and the mutation was effected in the revenue records and the pattadar pass book and title deed were also issued to her in the year 1996-97 declaring that she is the owner of the said land, there is absolutely no basis to allege that her possession is in contravention of sub-section (1) of Section 3 of the Act. On the said ground, the petitioner contends that the proceedings initiated by the 1st respondent under the impugned notice are liable to be set aside.

Admittedly, the 1st respondent is the competent authority to initiate proceedings under Section 3 (2) of Regulation 1 of 1959. Hence, whether there is any contravention of Section 3 (1) is a matter to be enquired into by the 1st respondent after making the necessary enquiry. This Court will not enter into such an issue and no finding as such can be recorded at this stage. Hence, the writ petition which is premature cannot be entertained.

Accordingly, the Writ Petition is dismissed. No costs.

However, this shall not preclude the petitioner to participate in the enquiry initiated under the impugned notice.

_____

G. ROHINI, J.

Dt. 25-7-2006
gbs